IN THE NEBRASKA COURT OF APPEALS

MEMORANDUM OPINION AND JUDGMENT ON APPEAL
(Memorandum Web Opinion)

IN RE INTEREST OF ATTICUS C. & APOLLO C.

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IN RE INTEREST OF ATTICUS C. AND APOLLO C., CHILDREN UNDER 18 YEARS OF AGE.

STATE OF NEBRASKA, APPELLEE,

V.

AYESHEA C., APPELLANT.

Filed November 10, 2026. No. A-26-180.

Appeal from the Separate Juvenile Court of Douglas County: Matthew R. Kahler, Judge. Affirmed.

Thomas C. Riley, Douglas County Public Defender, and Ronald C. Betita for appellant.

Jackson Stokes, Deputy Douglas County Attorney, for appellee.

RIEDMANN, Chief Judge, and BISHOP and WELCH, Judges.

BISHOP, Judge.

INTRODUCTION

Ayeshea C. appeals the order of the separate juvenile court of Douglas County terminating her parental rights to her children, Atticus C. and Apollo C. We affirm.

BACKGROUND

PROCEDURAL BACKGROUND

Ayeshea is the biological mother of Atticus, born in March 2024, and Apollo, born in March 2025. Atticus and Apollo were each removed from Ayeshea shortly after their respective births due to concerns that she could not meet their basic needs and concerns about her mental health. Ayeshea either could not or would not identify the children's father(s) during the juvenile proceedings below.

Ayeshea previously had her parental rights terminated to another child, Ansel C., in May 2018 in a separate juvenile court case after she entered a plea of admission that the child came within the meaning of Neb. Rev. Stat. § 43-292(7) (Reissue 2016) (out-of-home placement for 15 or more months of the most recent 22 months), and that termination of her parental rights was in the child's best interests. The juvenile court in that case found it to be a voluntary termination of parental rights.

Atticus was removed from Ayeshea in March 2024 due to concerns of physical and medical neglect.

The State filed a petition on March 20, 2024, and an amended petition on June 7. The amended petition alleged that Atticus was a child within the meaning of Neb. Rev. Stat. § 43-247(3)(a) (Reissue 2016) because he was homeless or destitute, or without proper parental support through no fault of Ayeshea, in that:

> A. Due to Ayeshea['s] . . . mental health needs, she is unable to provide for the care and/or wellbeing of said juvenile.
>
> B. Due to Ayeshea['s] . . . mental health needs, she has been unable to appropriately provide necessary medical treatment for said juvenile.
>
> C. Due to Ayeshea['s] . . . mental health needs, she has been unable to provide said juvenile with proper parental care, support, supervision and/or protection.
>
> D. Due to the above allegations, said juvenile is at risk for harm.

On March 20, the State also filed an ex parte motion for the immediate temporary custody of Atticus to be placed with the Nebraska Department of Health and Human Services (DHHS), with placement to exclude the home of Ayeshea. The juvenile court entered an order that same day. Atticus has since remained in DHHS' custody and in a foster home placement.

In an order entered on March 27, 2024, the juvenile court ordered that DHHS should offer the following services to Ayeshea on a voluntary basis: supervised visitation; family support; a psychological evaluation with IQ testing; and a psychiatric evaluation. Ayeshea was ordered to complete an affidavit of identification of the other parent of Atticus. The court appointed a guardian ad litem for Ayeshea.

On June 7, 2024, Atticus was adjudicated to be a child within the meaning of § 43-247(3)(a) after the juvenile court found that the allegations in the amended petition were true by a preponderance of the evidence. The matter proceeded to immediate disposition, and the court ordered Ayeshea to obtain and maintain safe and adequate housing to provide for herself and her child; undergo a psychological evaluation with IQ testing and parenting assessment; undergo a psychiatric evaluation as arranged by DHHS; complete a paternity affidavit; participate fully in individual therapy; participate in supervised visitation; maintain contact with all case professionals; cooperate fully with a family support worker; cooperate fully with all medication management appointments; take all medications as prescribed; and work with a parenting coach during visits with the minor child. Following subsequent review and permanency planning hearings, the juvenile court also ordered Ayeshea to follow all recommendations of the psychological and psychiatric evaluations; follow all treatment and therapeutic recommendations; and obtain and maintain a legal source of income to provide for herself and her child.

After Apollo was born in March 2025, the State filed a supplemental petition on March 31, alleging that he was a child within the meaning of § 43-247(3)(a) because he lacked proper parental care or support by reason of the fault or habits of Ayeshea, in that:

> A. Due to Ayeshea[‘s] . . . mental health needs, she is unable to provide for the care and/or wellbeing of said juvenile.
>
> B. Ayeshea . . . failed to alleviate the conditions that required the removal of the sibling of said juvenile.
>
> C. Ayeshea . . . cannot provide for the basic needs of said juvenile.
>
> D. Ayeshea[‘s] . . . use and/or possession of controlled substances and/or alcohol places said juvenile at risk for harm.
>
> E. Due to the above allegations, said juvenile is at risk for harm.

The State also filed an ex parte motion for the immediate temporary custody of Apollo to be placed with DHHS, with placement to exclude the home of Ayeshea. The juvenile court entered an order that same day. Apollo has since remained in DHHS' custody and in a foster home placement.

On May 21, 2025, Apollo was adjudicated to be a child within the meaning of § 43-247(3)(a) after the juvenile court found that the allegations in paragraphs "B" and "E" of the supplemental petition were true "based on the plea"; the allegations in the other paragraphs were dismissed on the State's motion. The matter proceeded to immediate disposition, and Ayeshea's court-ordered requirements were the same as previously ordered at Atticus' disposition hearing and subsequent review and permanency planning hearings.

Following a review and permanency planning hearing in July 2025, Ayeshea was also ordered to undergo a neuropsychological evaluation. Additionally, the juvenile court ordered that supervised visits with the children were to occur in a neutral location so long as Ayeshea continued to have any animals residing in her home.

On September 15, 2025, the State filed a motion to terminate Ayeshea's parental rights to Atticus and Apollo pursuant to § 43-292(2) and (6). The State also sought to terminate Ayeshea's parental rights to Atticus pursuant to § 43-292(7). The State alleged that Ayeshea had substantially and continuously or repeatedly neglected and refused to give Atticus and Apollo, or a sibling of said juveniles, necessary parental care and protection; reasonable efforts to preserve and reunify the family failed to correct the conditions leading to the adjudication of the children under § 43-247(3)(a); Atticus had been in an out-of-home placement for 15 or more months of the most recent 22 months; and termination of Ayeshea's parental rights was in the children's best interests.

TERMINATION HEARING

The parental rights termination hearing was held on January 9 and 12, 2026. The State called several witnesses to testify, and exhibits were received into evidence. Ayeshea testified in her own behalf.

A certified copy of the transcript from a previous juvenile court case involving Ayeshea's oldest child, Ansel, was received into evidence. The transcript reveals that in 2016, Ansel was removed from Ayeshea as an infant due to concerns about her mental health and her ability to provide basic care for Ansel without direction. Ansel was adjudicated to be a child within the meaning of § 43-247(3)(a) after Ayeshea admitted to allegations that she had been "diagnosed by

medical professionals involved in her care with Bipolar Disorder and major depressive episode"; her "mental health symptoms include volatile moods"; she was unable to provide said juvenile with safe, stable and/or appropriate housing"; and due to the foregoing allegations, the juvenile was at risk for harm. The juvenile court in that case ordered Ayeshea to undergo a psychological evaluation and parenting assessment; participate in individual therapy; participate in medication management; cooperate with family support services; complete a parenting class; have supervised visits; and maintain safe, appropriate, and adequate housing. Ayeshea had her parental rights terminated to Ansel in May 2018 after she entered a plea of admission that the child came within the meaning of § 43-292(7) (out-of-home placement for 15 or more months of the most recent 22 months), and that termination of her parental rights was in the child's best interests. The juvenile court in that case found it to be a voluntary termination of parental rights.

Nicole Harris, a DHHS child and family services specialist, has been the ongoing caseworker in the current juvenile court case since May 2024. When Harris was assigned to this case, she reviewed the intake as to why Atticus was taken into care, medical records, information on Ayeshea's past, and the case plan. Atticus was removed from Ayeshea's care in March 2024, and Apollo was removed in March 2025. Neither child has ever been returned to Ayeshea. Despite being ordered to complete paternity affidavits, Ayeshea failed to do so and told Harris that "both fathers signed . . . [nondisclosure agreements] to not have the information disclosed."

Ayeshea testified that she was able to take Atticus home from the hospital after his birth and he was in her care for 3 days. When asked why Atticus was not living with her, Ayeshea responded, "I had a breakdown and freaked out over [his] jaundice and the box that they wanted me to put him in" and "the day that they brought that, I kind of freaked out on the nurse." She could not take Apollo home from the hospital because Atticus was not in her home. She confirmed that she refused to complete paternity affidavits for her children, stating that "[o]ne is actually a sperm donor from a different state and all the partners who I had . . . all signed [non-disclosure agreements]."

Harris testified about Ayeshea's progress on her court-ordered requirements to do a psychological evaluation with IQ testing and parenting assessment, a psychiatric evaluation, and a neuropsychological evaluation; participate in therapy; cooperate with medication management; maintain safe and stable housing; verify employment; and have visitation with her children.

To Harris' knowledge, Ayeshea completed a psychological evaluation and parenting assessment, as well as a psychiatric evaluation, and she reported taking medications.

Dr. Theodore DeLaet, a licensed psychologist, completed a "Forensic Adult Psychological and Parenting Risk Assessment Report" about Ayeshea in April 2025 after an examination in January. According to Dr. DeLaet's report, Ayeshea reported that she was involved with Child Protective Services as a child, resulting in the termination of her parents' rights and her subsequent adoption. Ayeshea reported this was her second adult case with child protective services. She said she relinquished her parental rights to her oldest child, Ansel, and he has since been adopted.

According to Dr. DeLaet's report, Ayeshea disclosed that it was "'very likely'" that she was born with methamphetamine in her system." (At the termination hearing, Ayeshea testified that she was not born with methamphetamine in her system.) She reported she had been a daily "pot smoker" since age 20; she was 31 at the time of Dr. DeLaet's assessment.

In his report, Dr. DeLaet diagnosed Ayeshea with "Unspecified Bipolar Disorder"; "Cannabis Use Disorder, Moderate"; and "Attention-Deficit/Hyperactivity Disorder, Combined Type." She also had a "[r]ule-out" diagnosis of "Major Neurocognitive Disorder Due to Another Medical Condition (fetal drug exposure to methamphetamine), with behavioral disturbance"; and "Unspecified Personality Disorder," "[a]voidant, dependent, and narcissistic traits." Under "Parental/Family Risk Factors," he noted that Ayeshea

> triggers for having a second Child Protective Services Case. . . . She also was reported to have exhibited cruelty of a former pet that she let starve because she didn't want to take care of it anymore.
>
> [Ayeshea] triggers the risk factor for having significant persistent mental health problems. Bipolar Disorder is the predominant mental health problem. She has required 4 or 5 psychiatric hospitalizations since age 12. She is on mental health disability for SSI. Attention-Deficit/Hyperactivity Disorder (ADHD) has been diagnosed in the past. It is not being actively treated.
>
> [Ayeshea] triggers the risk factor for problematic personality traits. She is suspicious of others, reports she doesn't like people, and has trust issues with others. She has problems with others in positions of authority. She uses denial and blaming as primary coping strategies. Her self-assessment of how she is parenting and functioning overall likely does not match the assessment of her by others. . . . Her veracity/believability was rated as poor.

Dr. DeLaet's "Forensic Parenting Risk Determination" was that "[Ayeshea] is at moderate risk to engage in future child maltreatment." (Emphasis omitted.)

In his report, Dr. DeLaet recommended "proceeding with high caution toward reunification of [Ayeshea's] infant son to her care"; "[s]he may likely have successful supervised visits with her son but will struggle with transitioning to independent parenting of her son." Dr. DeLaet also recommended psychiatric medication management; a review of the efficacy of Ayeshea's mental health therapy to see if a change in therapist and therapy strategies would be beneficial; a behavior expectation of sobriety; a neurology referral and neuropsychological assessment to further the rule-out diagnosis of a major neurocognitive disorder due to another medical condition (e.g. fetal drug exposure to methamphetamine); "competence-based orientation of appropriate parenting of her son and demonstration of an understanding and appreciation of child development factors"; and a deliberate step-wise removal of services to give Ayeshea the best chance to be successful at regaining custody of her son.

Dr. DeLaet testified that bipolar disorder is in the category of "severe and persistent mental illness" and there are "different grades or severity" of the disorder. He said that bipolar disorder cannot be resolved without treatment and "the recommended treatment is a combination of psychiatric medicines and mental health therapy." "By definition," an unmanaged bipolar disorder affects a parent's ability to parent their children. His recommendations for Ayeshea were psychiatric medication management, outpatient mental health therapy, and sobriety.

Dr. DeLaet recommended that Ayeshea engage in a neuropsychological evaluation because it was disclosed that she was born with methamphetamine in her system. He said, "[T]here is a category of mental disorder entitled Neurocognitive Disorders, and if it's confirmed that she was

a fetal alcohol or fetal drug baby, that could contribute to a number of other problems that she experienced." "A lot of those, particularly if it's methamphetamine, can have learning problems that are often identified early as having attention deficit hyperactivity disorder, and may have mood problems, learning problems." Dr. DeLaet stated, "[T]here were limits on what I could conclude from the data I had, and a neuropsych would be a further assessment to be more specific about levels of impairment and things that she could to do treat that or reduce her risk."

Caseworker Harris testified that Ayeshea did not complete a neuropsychological evaluation. Ayeshea told Harris that she made efforts to set up a neuropsychological evaluation, but that the individuals she contacted would not do the evaluation because it was ordered by the court. The two individuals Harris contacted told her the same, and the providers also told her that she could not schedule the evaluation because Ayeshea is an adult and must schedule it herself.

As for Ayeshea's participation in individual therapy, Harris testified that Ayeshea reported seeing therapist Kari Fenton from November 2016 to May 2025, and then Brenda Ticknor beginning in May. However, when Harris was able to contact Ticknor in November or December, Ticknor said she never worked with Ayeshea. To Harris' knowledge, Ayeshea had not been engaged in therapy since May 2025.

Ayeshea testified that she did therapy once a week with Kari Fenton beginning in October 2016, but she "recently retired." Ayeshea's current provider is "Brightside," "a therapy app that accepts Medicaid." When asked if Brenda Ticknor was ever her therapist, Ayeshea replied, "No," "[s]he was my intake" on the app. But on cross-examination, Ayeshea confirmed that she told her case manager that she was seeing Ticknor. Ayeshea testified that everything on Brightside is remote, and she has been seeing her current therapist, Gretchen Wilson, since November 2025. She attended therapy once a week.

Harris stated that Ayeshea received disability income. And Ayeshea maintained housing throughout Harris' time on the case, but there were concerns for the safety and suitability of the housing. Ayeshea worked with a family support worker from Owens & Associates on basic household chores like cleaning her home and doing dishes and laundry.

Sara Fender, a child and family services division supervisor at Owens & Associates, testified that she supervised five workers and her team provided family support and supervised visitation. From November 2024 through November 2025, Fender's team provided family support to Ayeshea. Fender's team facilitated supervised visitation as well, but "[b]ecause it was a parenting coach, we did that under the family support," "[i]t was never documented under supervision." Explaining the difference between a parenting coach and regular visitation, Fender stated, "A parenting coach is more hand-on and helps [the parent] with, like, diaper changes, helping them with the feedings, helping them learn how to care for babies versus somebody who may already know that stuff and we don't have to be as detailed with them when we do the supervised visits."

Fender stated that Ayeshea was originally scheduled to have five visits each week, but she did not participate and the visits were reduced. Ayeshea told Fender she was not ready for visits because of health issues, so Ayeshea just did family support. (Atticus' foster mother testified that Ayeshea did not have visits from the end of November 2024 to the end of February 2025.) When Ayeshea wanted to resume visits, they started with two visits each week and then added more when she was consistent.

During family support, Fender's team addressed concerns about Ayeshea's home not being safe for children. When the case began, Ayeshea had dishes piled up in the sink, "a lot of stuff on her bed to where she couldn't lay in there," clothing on the floor in the child's bedroom, and "pins and screwdrivers and things left out." "It was within, like, the first three or four visits that . . . we had to remove [the visits] from the home" due to safety concerns at "almost every visit"; bedbugs were found by staff and there were choking hazards, like bottle caps and little pieces of glass. Fender's staff worked with Ayeshea to make her home safe for visits. Over time, the condition of the home improved, allowing visits to return to the home for "a good couple of months," but then visits had to be moved out of the home again. The condition of the home was not the sole reason visits were moved out of the home again; Ayeshea's cat had scratched Atticus, and his foster parent was concerned that he was allergic to cats. In July 2025, the juvenile court ordered that visitations were to occur in a neutral location as long as Ayeshea had any animals residing in the home. (According to DHHS court reports, Ayeshea's cat scratched Atticus during a June 2025 visit. She subsequently refused to confine her cat to her room during visits, claiming that it was her "emotional support animal" but, despite repeated requests, she failed to provide documentation to support her claim. As of December, she claimed that making her get rid of her cat constituted religious discrimination.)

Joaquin Guerrero, Jr., a Family Partner II at Owens & Associates, testified that he was assigned to the case from November 2024 until September 2025 and provided family support to Ayeshea. The main goals were (1) to make sure her environment was safe for children and (2) child development and supervision. Guerrero worked with Ayeshea four times a week.

Guerrero worked with Ayeshea on the cleanliness and safety of the home "for a couple of months." The home was cluttered, dishes filled the kitchen counters and sink, there were bags of trash, and there was "debris" on the floor. Guerrero worked one-on-one with Ayeshea on cleaning her house, modeling skills for her, and the condition of the home slowly improved each week. However, by July 2025, all but the children's room returned to the original condition.

Guerrero stated that "[a] few people," like friends or neighbors, were present during his sessions with Ayeshea. One was "a homeless friend" who worked on organizing and straightening Ayeshea's bedroom. Ayeshea told Guerrero that sometimes friends helped her clean and do chores in exchange for food, a shower, or shelter. "Some of the things sounded very kind, but at the same time, some of them sounded very risky and very . . . dangerous." When asked what sounded risky, Guerrero responded that Ayeshea told him about a man "who . . . wanted to stay the night and he was going to stay on the couch." "She wasn't worried about him because she had . . . some protection, like a, I think she said something like a steak knife under her pillow, so she wasn't worried about him messing with her," but "he asked for sex favors or for her to do some sex acts . . . and she told him, no, . . . and then she asked him to never come back." Guerrero never personally witnessed anyone doing anything inappropriate but talked to Ayeshea about being careful with who she trusted and who she allowed near her. He said that Ayeshea had a written list of household rules on her front door and on her bedroom door with things like, "don't steal my stuff" and "don't eat my food without permission."

Guerrero started supervising visits in February 2025, and Apollo was born in March. It was "very clear" that Ayeshea loved her children. However, Guerrero had concerns about Ayeshea's ability to care for both children at the same time, and she needed prompts to ensure that their needs

were met. He and Ayeshea talked about appropriate feedings, and he had to remind her about the importance of monitoring how much the children were eating and drinking, making sure that the food was not a choking hazard and that they were staying hydrated. There were times when the children did not get enough to eat during a visit and would cry from hunger on the drive back to their foster homes. (A June DHHS court report stated Ayeshea continued to need guidance on how to effectively console and comfort both children, follow appropriate feeding and diaper-changing schedules, and maintain a safe environment including how to keep hazardous items out of reach.) From July to September, Ayeshea's visits with the children occurred in a neutral location. They worked on safety concerns that arose in different environments--monitoring children around cars in parking lots or keeping an eye on them in public places like the mall, library, or park. During the course of Guerrero's work with Ayeshea, she showed some improvement in her basic parenting skills. However, her ability to implement the skills that they worked on if he was not there was one of Guerrero's "major concerns." Ayeshea continued to need prompts even though they were "seven, eight months down the road."

Guerrero stopped working with Ayeshea in September 2025 due to her lack of participation. "[I]t wasn't a major issue," but "after so many either no-shows or cancellations . . . they have to . . . adjust my schedule." Most of the cancellations were because Ayeshea was not feeling well. (Caseworker Harris testified that toward the end of 2025, Ayeshea was not meeting with her family support worker as much because she was not feeling well. Harris expressed the importance of engaging with the service, but Ayeshea said that she could not help that she was not feeling well.)

Fender stated that on October 14, 2025, Owens & Associates was advised that the agency would no longer be providing family support and visitation to Ayeshea because "our agency was not redirecting Ayeshea" and Atticus "was not being fed during visits." The discharge occurred on November 17. When asked if her agency had addressed feeding issues with Ayeshea, Fender stated, "We didn't have any concerns with it because she was feeding him." Fender explained that the foster parent contacted her in July 2025 and was concerned that Ayeshea was not feeding Atticus the foods that the foster parent wanted the child to be fed, but Fender told the foster parent that the agency "can't control what she does feed him as long as she's feeding him something." At the time, Ayeshea fed Atticus foods like pizza, crackers, or a Lunchable; "[e]very day was different."

According to a December 2025 DHHS court report, family support and visitation services switched from Owens & Associates to Nebraska Neurobehavioral Services in November. Ayeshea faced ongoing challenges maintaining a clean, safe, and adequate living environment. And she would benefit from continued assistance in managing care of two young children simultaneously while ensuring their safety and overall wellbeing.

Caseworker Harris testified that Ayeshea's visits have always been supervised. And during her visits, Ayeshea had a parenting coach to guide her in comforting, feeding, and changing the boys. Ayeshea had not demonstrated the ability to parent her children unsupervised.

Atticus' foster mother testified Atticus has been living in her home since March 25, 2024. She sent a communication log on his visits and included information for feeding, diaper changes, and any other information Ayeshea needed to know. Ayeshea included information in the communication log as well for the first year, but then she stopped. The foster mother's concerns

about overfeeding came from her review of the communication log. The foster mother had the doctor write two notes about what formula to use and recommended feeding amounts. Ayeshea consistently logged more ounces than recommended, which led to Atticus "spitting up" as an infant and then projectile vomiting starting when he was around 8 months old. Atticus also came back from visits hungry "[p]retty regularly."

Throughout this case, Atticus' foster mother had concerns about Atticus' wellbeing following visits. The initial concerns were overfeeding, smelling like cigarette smoke, and uncleanliness. As he has gotten older, there have been sleep disturbances and behavior issues following visits ("beating his head against the floor or the wall" or different tantrum type behaviors) and he is "emotionally dysregulated" for 2 days. These behaviors happen "[w]ay less frequently" on a "regular day."

Apollo's foster mother testified that Apollo has been living in her home since April 24, 2025. She communicated with Ayeshea via a communication book sent back and forth through visitation. "[W]ell over 50 percent of the time," Apollo was hungry when he came back from visits with Ayeshea; the foster mother did not know what happened during the visit, if he was not taking the bottle or if it was not offered. There were also times when Apollo was overfed and was spitting up and not feeling well after the visit. In addition to feeding concerns during visits, there was a month of visits when Apollo returned in a diaper that was too small, and one time he came back in an outfit that was too small (a newborn outfit instead of 6 to 9 month clothing).

Terri N. testified that she was Ayeshea's mother, having adopted her when she was 8 years old. Terri noticed Ayeshea was having some mental health struggles when she was around 8 or 9 years old. Ayeshea was diagnosed with "PTSD" and bipolar disorder. She had "a lot of emotional outbursts" and "some suicidal behavior where she would threaten to hurt herself." Terri worked with psychiatrists and they "tried all kinds of different medicines" to get Ayeshea stabilized, but medications would "work for a while and then they would not."

Terri has never seen Ayeshea's mental health stabilized. Even during recent conversations, Ayeshea told Terri that she did not need medication, but also said that she asked her psychiatrist for antianxiety medication. "[E]very couple months," Terri asked Ayeshea if she was going to therapy and "the answers have been mixed," "[s]ometimes she says yes, and sometimes she says no."

Terri testified that Ayeshea has three biological children but no longer had parental rights to the oldest child. Terri did not believe that Ayeshea did very well on her own with her oldest child--Ayeshea "was not making good life choices," could not keep a permanent residence, and "the people she would allow into her home and into her life were very questionable" and would steal from her.

Ayeshea and Atticus lived with Terri for 4 or 5 days after Atticus was born. Terri had to remind Ayeshea to change Atticus' diapers and to feed him. Terri observed that Ayeshea would only feed him "for a couple of minutes, and it was very clear when she would stop that he was still hungry because he'd be crying." Ayeshea also fell asleep when she was feeding Atticus and Terri had to wake her up. After those 4 or 5 days, Atticus was removed from Ayeshea's care. And when Apollo was born, he was removed from Ayeshea at the hospital.

Terri said Ayeshea frequently expressed that Atticus and Apollo were removed "unjustly" and "because of lies that were told when the person called CPS to report her." Ayeshea does not

take accountability for her actions. She told Terri that it was not her fault her children were removed and that the State should give them back "and she's going to sue the state." She blamed her messy house on her friends and others and said that it was not her responsibility to clean. Ayeshea never expressed a desire to change so that she could get her children back in her care.

During the summer of 2025, Ayeshea had a supervised visit with Atticus and Apollo at Terri's house. Terri said she asked Ayeshea to do some things to help prepare for the visit like washing toys and bringing a highchair, but Ayeshea did neither. During the visit, Terri observed Ayeshea feed Apollo a bottle when he was not hungry, bounce him until he was sick and crying from an upset stomach, and then she tried to feed him more. When asked about Ayeshea's interactions with Atticus, Terri said, "She was kind of, I don't want to say rude, but she was kind of rough and gruff with him." Ayeshea "got really frustrated and irritated" with Atticus for being "wiggly" during a diaper change, and she "spoke very cross and kind of yelled at him a little bit." Terri "felt like [Ayeshea] could not take care of both the kids at the same time."

Terri had concerns about Ayeshea's ability to provide for herself. According to Terri, Ayeshea is not financially stable, "[s]he'll get money for her Social Security" and "it's all gone" in 2 days. Terri was also concerned about some of Ayeshea's purchases. "Right after Apollo was born," Ayeshea bought the boys a gaming system so that they could play video games, but "that was a little age inappropriate."

Terri did not believe that Ayeshea was fit to parent her children. Terri said, "I know she loves those boys, and I know she wants to be a mom," "[b]ut I don't think she realizes that the skills that she's -- that's trying to be taught is what she needs to parent, and I don't think she can keep those boys safe."

Caseworker Harris opined that Ayeshea was not a fit parent and that it was in the children's best interests to terminate her parental rights. Harris based her opinion on the cleanliness of the home, the safety and welfare of the children, the length of time the children had been in foster care, and Ayeshea's failure to complete the court ordered requirements. Ayeshea had not demonstrated the ability to parent her children unsupervised.

Ayeshea testified that she had contact with Harris once or twice a month and had monthly family team meetings. She had contact with Guerrero on a weekly basis for family support and visits with her children. She worked with Guerrero on how to maintain a household, breaking habits, childcare, and baby proofing. She and Guerrero also worked on a parenting class but "didn't get to finish"; she had one more chapter left to do. She now has a different family support worker from a different company; she was told the reasons for the change was that she was not being redirected enough "if [she] did something wrong." Ayeshea currently had supervised visits with her children three times each week. She acknowledged there were times that she overfed the children because it was hard to gauge.

Ayeshea testified that she has been on medications since she was 7 years old and has "been on every med you could think of," but "[n]othing works." "I have learned to control myself. Yes, I have anxiety. Yes, I have bipolar. . . . But I've been in therapy for years now." She indicated that she has not taken medication for her bipolar disorder "for almost eight years now."

JUVENILE COURT'S DECISION

The juvenile court entered an order on February 13, 2026, finding by clear and convincing evidence that statutory grounds existed to terminate Ayeshea's parental rights to both children pursuant to § 43-292(2), statutory grounds also existed pursuant § 43-292(7) for Atticus, and termination of Ayeshea's parental rights was in the best interests of both children. However, the court found there was not sufficient evidence to prove § 43-292(6) as a statutory basis for termination in this case. The court terminated Ayeshea's parental rights to Atticus and Apollo accordingly.

Ayeshea appeals.

ASSIGNMENTS OF ERROR

Ayeshea assigns that the juvenile court erred in terminating her parental rights because the State failed to prove by clear and convincing evidence that (1) the children were within the meaning of § 43-292(2) and (7); and (2) termination of her parental rights was in her children's best interests.

STANDARD OF REVIEW

An appellate court reviews juvenile cases de novo on the record and reaches its conclusions independently of the findings made by the juvenile court below. *In re Interest of Mateo L. et al.*, 309 Neb. 565, 961 N.W.2d 516 (2021). However, when the evidence is in conflict, an appellate court may consider and give weight to the fact that the juvenile court observed the witnesses and accepted one version of the facts over another. *Id.*

ANALYSIS

STATUTORY GROUNDS FOR TERMINATION

The State sought to terminate Ayeshea's parental rights to Atticus and Apollo under § 43-292(2) and (6), and § 43-292(7) as an additional ground for Atticus. The juvenile court found, by clear and convincing evidence, that statutory grounds existed pursuant to § 43-292(2) for both children and statutory grounds also existed pursuant § 43-292(7) for Atticus.

In her brief, Ayeshea "does not contest the length of time Atticus remained out of the home, and that the statutory time frame is met." Brief for appellant at 22. We agree that a statutory ground for termination of Ayeshea's parental rights to Atticus existed pursuant to § 43-292(7). Section 43-292(7) allows for termination when "[t]he juvenile has been in an out-of-home placement for fifteen or more months of the most recent twenty-two months." The existence of the statutory basis alleged under § 43-292(7) should be determined as of the date the petition or motion to terminate is filed. *In re Interest of Jessalina M.*, 315 Neb. 535, 997 N.W.2d 778 (2023). Atticus was removed from Ayeshea's custody on March 20, 2024, and remained in foster care thereafter. By the time the motion to terminate Ayeshea's parental rights was filed on September 15, 2025, Atticus had been in an out-of-home placement for 17 months, thus the 15-out-of-22 months' period was clearly satisfied for him.

We now turn to the other alleged statutory basis used to support the termination of Ayeshea's parental rights to Apollo. Section 43-292(2) provides for termination of parental rights when the parent has substantially and continuously or repeatedly neglected and refused to give the

juvenile or a sibling of the juvenile necessary parental care and protection. "One need not have physical possession of a child to demonstrate the existence of neglect contemplated by § 43-292(2)." *In re Interest of Joseph S. et al.*, 291 Neb. 953, 962-63, 870 N.W.2d 141, 149 (2015). "'"A parent may as surely neglect a child of whom [he or] she does not have possession by failing to put [himself or] herself in a position to acquire possession as by not properly caring for a child of whom [he or] she does have possession."'" *In re Interest of Elizabeth S.*, 282 Neb. 1015, 1025-26, 809 N.W.2d 495, 504 (2012) (citations omitted) (brackets in original). A parent's failure to provide an environment to which his or her children can return can establish substantial, continual, and repeated neglect. *In re Interest of Joseph S. et al., supra.*

Atticus was removed from Ayeshea due to concerns that she could not meet his basic needs and concerns about her mental health. Apollo was subsequently removed from Ayeshea near the time of his birth because Atticus was already in DHHS' custody and foster care and Ayeshea had not alleviated the conditions that required Atticus' removal. Despite several months of working with a family support worker/parenting coach both before and after Apollo's birth, Ayeshea failed to maintain a safe and clean home and there were ongoing concerns about her either overfeeding the children or not feeding them enough. Caseworker Harris testified that she never recommended that Ayeshea move beyond supervised visitation because she had to be coached regarding feedings and when to change diapers. As noted by the juvenile court's order, Ayeshea "needed continued redirection on a regular basis with respect to the needs of her children."

We find by clear and convincing evidence that a statutory ground existed to terminate Ayeshea's parental rights to Apollo (and Atticus) pursuant to § 43-292 because she failed to provide an environment to which her children could return, and that she failed to put herself in a position to acquire possession of the children.

We next consider whether termination is in the children's best interests.

BEST INTEREST AND UNFITNESS

Under § 43-292, in addition to proving a statutory ground, the State must show that termination is in the best interests of the child. *In re Interest of Noah C.*, 306 Neb. 359, 945 N.W.2d 143 (2020). A child's best interests are presumed to be served by having a relationship with his or her parent. *In re Interest of Leyton C. & Landyn C.*, 307 Neb. 529, 949 N.W.2d 773 (2020). This presumption is overcome only when the State has proved that the parent is unfit. *Id.* Although the term "unfitness" is not expressly stated in § 43-292, the Nebraska Supreme Court has said that it derives from the fault and neglect subsections of that statute and from an assessment of the child's best interests. *In re Interest of Mateo L. et al., supra*. In the context of the constitutionally protected relationship between a parent and a child, parental unfitness means a personal deficiency or incapacity which has prevented, or will probably prevent, performance of a reasonable parental obligation in child rearing and which has caused, or probably will result in, detriment to a child's well-being. *In re Interest of Leyton C. & Landyn C., supra*. The best interests analysis and the parental fitness analysis are separate inquiries, but each examines essentially the same underlying facts as the other. *Id.* We have previously set forth the evidence presented at the termination hearing, and we will not recount it all again here.

There is no doubt that Ayeshea loves her children and has cooperated with many of her court ordered services. She had a regular source of income, completed a psychological evaluation

and parenting assessment, regularly met with her caseworker and family support worker/parenting coach, and had supervised visits with her children. However, as stated above, despite several months of working with a family support worker/parenting coach, Ayeshea did not maintain safe and clean housing, and she needed continued redirection on a regular basis with respect to the needs of her children. Caseworker Harris testified that Ayeshea never moved beyond supervised visitation because she had not demonstrated the ability to parent her children unsupervised.

Additionally, Ayeshea did not continue to regularly participate in individual therapy; the juvenile court found that Ayeshea's testimony to the contrary was not credible. And we agree with the juvenile court's finding that Ayeshea "has not addressed her mental health needs to the degree necessary to address the concerns that exist not only for her two children at issue in [this case], but that also existed at the time of her Juvenile Court involvement with her previous child."

Harris opined that Ayeshea was not a fit parent and that it was in the children's best interests to terminate her parental rights. We agree. "Children cannot, and should not, be suspended in foster care or be made to await uncertain parental maturity." *In re Interest of Walter W.*, 274 Neb. 859, 872, 744 N.W.2d 55, 65 (2008). And when a parent is unable or unwilling to rehabilitate himself or herself within a reasonable period of time, the child's best interests require termination of parental rights. *In re Interest of Leyton C. & Landyn C., supra*. The State proved that Ayeshea was unfit, meaning that she has a personal deficiency or incapacity which has prevented, or will prevent, performance of a reasonable parental obligation in child rearing and which has caused, or probably will result in, detriment to the child's well-being. See *id.* We further find that there is clear and convincing evidence that it is in the children's best interests to terminate Ayeshea's parental rights.

CONCLUSION

For the foregoing reasons, we affirm the order of the juvenile court terminating Ayeshea's parental rights to Atticus and Apollo.

AFFIRMED.